
By: **Chairman, Judiciary Committee (By Request - Departmental - Public
Safety and Correctional Services)**

Introduced and read first time: January 21, 2004

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Sex Offender Registration**

3 FOR the purpose of establishing certain registration requirements for certain
4 transient registrants; requiring registration of certain information by certain
5 registrants on work release; requiring annual photographs of certain registrants
6 as part of registration by certain local law enforcement units; altering certain
7 annual registration requirements for certain registrants; requiring certain
8 offenders to register on release from incarceration under certain circumstances;
9 altering certain registration requirements for sexually violent predators; adding
10 certain registration duties to supervising authorities and certain local law
11 enforcement units for certain transient registrants; adding and altering certain
12 definitions; and generally relating to the registration of sex offenders.

13 BY repealing and reenacting, with amendments,
14 Article - Criminal Procedure
15 Section 11-701, 11-704, 11-705, 11-706, 11-707, 11-708, 11-709, and 11-711
16 Annotated Code of Maryland
17 (2001 Volume and 2003 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article - Criminal Procedure
20 Section 11-721
21 Annotated Code of Maryland
22 (2001 Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Criminal Procedure**

26 11-701.

27 (a) In this subtitle the following words have the meanings indicated.

1 (b) "Child sexual offender" means a person who:

2 (1) has been convicted of violating § 3-602 of the Criminal Law Article;

3 (2) has been convicted of violating any of the provisions of the rape or
4 sexual offense statutes under §§ 3-303 through 3-307 of the Criminal Law Article for
5 a crime involving a child under the age of 15 years;

6 (3) has been convicted of violating the fourth degree sexual offense
7 statute under § 3-308 of the Criminal Law Article for a crime involving a child under
8 the age of 15 years and has been ordered by the court to register under this subtitle;
9 or

10 (4) has been convicted in another state or in a federal, military, or Native
11 American tribal court of a crime that, if committed in this State, would constitute one
12 of the crimes listed in items (1) and (2) of this subsection.

13 (b-1) "Employment" means an occupation, job, or vocation that is full time or
14 part time for a period exceeding 14 days or for an aggregate period exceeding 30 days
15 during a calendar year, whether financially compensated, volunteered, or for the
16 purpose of government or educational benefit.

17 (c) "Local law enforcement unit" means the law enforcement unit in a county
18 that has been designated by resolution of the county governing body as the primary
19 law enforcement unit in the county.

20 (d) "Offender" means a person who is ordered by a court to register under this
21 subtitle and who:

22 (1) has been convicted of violating § 3-503 of the Criminal Law Article;

23 (2) has been convicted of violating § 3-502 of the Criminal Law Article or
24 the fourth degree sexual offense statute under § 3-308 of the Criminal Law Article, if
25 the victim is under the age of 18 years;

26 (3) has been convicted of the common law crime of false imprisonment, if
27 the victim is under the age of 18 years and the person is not the victim's parent;

28 (4) has been convicted of a crime that involves soliciting a person under
29 the age of 18 years to engage in sexual conduct;

30 (5) has been convicted of violating the child pornography statute under §
31 11-207 of the Criminal Law Article;

32 (6) has been convicted of violating any of the prostitution and related
33 crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended
34 prostitute or victim is under the age of 18 years;

35 (7) has been convicted of a crime that involves conduct that by its nature
36 is a sexual offense against a person under the age of 18 years;

1 (8) has been convicted of an attempt to commit a crime listed in items (1)
2 through (7) of this subsection; or

3 (9) has been convicted in another state or in a federal, military, or Native
4 American tribal court of a crime that, if committed in this State, would constitute one
5 of the crimes listed in items (1) through (8) of this subsection.

6 (e) (1) Except as otherwise provided in this subsection, "release" means any
7 type of release from the custody of a supervising authority.

8 (2) "Release" includes:

9 (i) release on parole[, mandatory supervision, and work release;
10 and

11 (ii) except for leave that is granted on an emergency basis, any type
12 of temporary leave];

13 (II) MANDATORY SUPERVISION RELEASE;

14 (III) RELEASE FROM A CORRECTIONAL FACILITY WITH NO
15 REQUIRED PERIOD OF SUPERVISION;

16 (IV) WORK RELEASE;

17 (V) PLACEMENT ON HOME DETENTION; AND

18 (VI) THE FIRST INSTANCE OF ENTRY INTO THE COMMUNITY THAT
19 IS PART OF A SUPERVISING AUTHORITY'S GRADUATED RELEASE PROGRAM.

20 (3) "Release" does not include:

21 (I) an escape; OR

22 (II) LEAVE THAT IS GRANTED ON AN EMERGENCY BASIS.

23 (f) "Sexually violent offender" means a person who:

24 (1) has been convicted of a sexually violent offense; or

25 (2) has been convicted of an attempt to commit a sexually violent offense.

26 (g) "Sexually violent offense" means:

27 (1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of
28 the Criminal Law Article;

29 (2) assault with intent to commit rape in the first or second degree or a
30 sexual offense in the first or second degree as prohibited on or before September 30,
31 1996, under former Article 27, § 12 of the Code; or

1 (3) a crime committed in another state or in a federal, military, or Native
2 American tribal jurisdiction that, if committed in this State, would constitute one of
3 the crimes listed in item (1) or (2) of this subsection.

4 (h) "Sexually violent predator" means:

5 (1) a person who:

6 (i) is convicted of a sexually violent offense; and

7 (ii) has been determined in accordance with this subtitle to be at
8 risk of committing another sexually violent offense; or

9 (2) a person who is or was required to register every 90 days for life
10 under the laws of another state or a federal, military, or Native American tribal
11 jurisdiction.

12 (i) "Supervising authority" means:

13 (1) the Secretary, if the registrant is in the custody of a correctional
14 facility operated by the Department;

15 (2) the administrator of a local correctional facility, if the registrant,
16 including a participant in a home detention program, is in the custody of the local
17 correctional facility;

18 (3) the court that granted the probation or suspended sentence, except as
19 provided in item (12) of this subsection, if the registrant is granted probation before
20 judgment, probation after judgment, or a suspended sentence;

21 (4) the Director of the Patuxent Institution, if the registrant is in the
22 custody of the Patuxent Institution;

23 (5) the Secretary of Health and Mental Hygiene, if the registrant is in
24 the custody of a facility operated by the Department of Health and Mental Hygiene;

25 (6) the court in which the registrant was convicted, if the registrant's
26 sentence does not include a term of imprisonment OR IF THE SENTENCE IS MODIFIED
27 TO TIME SERVED;

28 (7) the Secretary, if the registrant is in the State under terms and
29 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
30 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
31 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

32 (8) the Secretary, if the registrant moves to this State and was convicted
33 in another state of a crime that would require the registrant to register if the crime
34 was committed in this State;

35 (9) the Secretary, if the registrant moves to this State from another state
36 where the registrant was required to register;

1 (10) the Secretary, if the registrant is convicted in a federal, military, or
2 Native American tribal court and is not under supervision by another supervising
3 authority;

4 (11) the Secretary, if the registrant is not a resident of this State and has
5 been convicted in another state or by a federal, military, or Native American tribal
6 court; or

7 (12) the Director of Parole and Probation, if the registrant is under the
8 supervision of the Division of Parole and Probation.

9 (J) "TRANSIENT" MEANS THE STATUS OF A NONRESIDENT REGISTRANT WHO
10 ENTERS THIS STATE FOR A PERIOD EXCEEDING 14 DAYS OR FOR AN AGGREGATE
11 PERIOD EXCEEDING 30 DAYS DURING A CALENDAR YEAR FOR A PURPOSE OTHER
12 THAN EMPLOYMENT OR TO ATTEND AN EDUCATIONAL INSTITUTION.

13 11-704.

14 (a) A person shall register with the person's supervising authority if the
15 person is:

16 (1) a child sexual offender;

17 (2) an offender;

18 (3) a sexually violent offender;

19 (4) a sexually violent predator;

20 (5) a child sexual offender who, before moving into this State, was
21 required to register in another state or by a federal, military, or Native American
22 tribal court for a crime that occurred before October 1, 1995;

23 (6) an offender, sexually violent offender, or sexually violent predator
24 who, before moving into this State, was required to register in another state or by a
25 federal, military, or Native American tribal court for a crime that occurred before July
26 1, 1997; or

27 (7) a child sexual offender, offender, sexually violent offender, or sexually
28 violent predator who is required to register in another state, who is not a resident of
29 this State, and who enters this State:

30 (i) to carry on employment; [or]

31 (ii) to attend a public or private educational institution, including a
32 secondary school, trade or professional institution, or institution of higher education,
33 as a full-time or part-time student; OR

34 (III) AS A TRANSIENT.

1 (b) Notwithstanding any other provision of law, a person is no longer subject
2 to registration under this subtitle if:

3 (1) the underlying conviction requiring registration is reversed, vacated,
4 or set aside; or

5 (2) the registrant is pardoned for the underlying conviction.

6 11-705.

7 (a) In this section, "resident" means a person who lives in this State when the
8 person:

9 (1) is released;

10 (2) is granted probation;

11 (3) is granted a suspended sentence; or

12 (4) receives a sentence that does not include a term of imprisonment.

13 (b) A registrant shall register with the supervising authority:

14 (1) if the registrant is a resident, on or before the date that the
15 registrant:

16 (i) is released;

17 (ii) is granted probation before judgment;

18 (iii) is granted probation after judgment;

19 (iv) is granted a suspended sentence; or

20 (v) receives a sentence that does not include a term of
21 imprisonment;

22 (2) if the registrant moves into the State, within 7 days after the earlier
23 of the date that the registrant:

24 (i) establishes a temporary or permanent residence in the State; or

25 (ii) applies for a driver's license in the State; or

26 (3) if the registrant is not a resident, within 14 days after the registrant:

27 (i) begins employment in the State; [or]

28 (ii) registers as a student in the State; OR

29 (III) ENTERS THE STATE AS A TRANSIENT.

1 (c) (1) A child sexual offender shall also register in person with the local law
2 enforcement unit of the county where the child sexual offender will reside:

3 (i) within 7 days after release, if the child sexual offender is a
4 resident; or

5 (ii) within 7 days after registering with the supervising authority, if
6 the registrant is moving into this State.

7 (2) Within 7 days after registering with the supervising authority, a child
8 sexual offender who is not a resident and [who works or attends school in this State]
9 HAS ENTERED THE STATE UNDER § 11-704(A)(7) OF THIS SUBTITLE shall also register
10 in person with the local law enforcement unit of the county where the child sexual
11 offender IS A TRANSIENT OR will work or attend school.

12 (3) A child sexual offender may be required to give to the local law
13 enforcement unit more information than required under § 11-706 of this subtitle.

14 (d) A registrant who changes residences shall send written notice of the
15 change to the Department within 7 days after the change occurs.

16 (e) (1) A registrant who commences or terminates enrollment as a full-time
17 or part-time student at an institution of higher education in the State shall send
18 written notice to the Department within 7 days after the commencement or
19 termination of enrollment.

20 (2) A registrant who commences or terminates carrying on employment
21 at an institution of higher education in the State shall send written notice to the
22 Department within 7 days after the commencement or termination of employment.

23 (f) A registrant who is granted a legal change of name by a court shall send
24 written notice of the change to the Department within 7 days after the change is
25 granted.

26 11-706.

27 (a) A registration statement shall include:

28 (1) the registrant's full name, including any suffix, and address;

29 (2) (i) for a registrant under § 11-704(a)(7)(i) of this subtitle OR WHO
30 IS ON WORK RELEASE, the registrant's place of employment; or

31 (ii) for a registrant under § 11-704(a)(7)(ii) of this subtitle, the
32 registrant's place of educational institution or school enrollment;

33 (3) (i) for a registrant enrolled, or expecting to enroll, in an institution
34 of higher education in the State as a full-time or part-time student, the name and
35 address of the institution of higher education; or

1 (ii) for a registrant who carries on employment, or expects to carry
2 on employment, at an institution of higher education in the State, the name and
3 address of the institution of higher education;

4 (4) a description of the crime for which the registrant was convicted;

5 (5) the date that the registrant was convicted;

6 (6) the jurisdiction in which the registrant was convicted;

7 (7) a list of any aliases that the registrant has used;

8 (8) the registrant's Social Security number;

9 (9) any other name by which the registrant has been legally known; and

10 (10) the registrant's signature and date signed.

11 (b) If the registrant is a sexually violent predator, the registration statement
12 shall also include:

13 (1) identifying factors, including a physical description;

14 (2) anticipated future residence, if known at the time of registration;

15 (3) offense history; and

16 (4) documentation of treatment received for a mental abnormality or
17 personality disorder.

18 11-707.

19 (a) (1) (I) A child sexual offender shall register annually in person with a
20 local law enforcement unit for the term provided under paragraph (4) of this
21 subsection.

22 (II) EACH REGISTRATION SHALL INCLUDE A PHOTOGRAPH.

23 (2) An offender and a sexually violent offender shall register annually
24 with [the Department] A LOCAL LAW ENFORCEMENT UNIT in accordance with §
25 11-711(a) of this subtitle and for the term provided under paragraph (4) of this
26 subsection.

27 (3) (I) A sexually violent predator shall register IN PERSON every 90
28 days in accordance with § 11-711(b) of this subtitle and for the term provided under
29 paragraph (4)(ii) of this subsection.

30 (II) REGISTRATION SHALL INCLUDE A PHOTOGRAPH TAKEN ONCE
31 A YEAR.

32 (4) The term of registration is:

- 1 (i) 10 years; or
- 2 (ii) life, if:
- 3 1. the registrant is a sexually violent predator;
- 4 2. the registrant has been convicted of a sexually violent
5 offense;
- 6 3. the registrant has been convicted of a violation of § 3-602
7 of the Criminal Law Article for commission of a sexual act involving penetration of a
8 child under the age of 12 years; or
- 9 4. the registrant has been convicted of a prior crime as a
10 child sexual offender, an offender, or a sexually violent offender.

11 (5) A registrant who is not a resident of the State shall register for the
12 appropriate time specified in this subsection or until the registrant's employment
13 [or], student enrollment, OR TRANSIENT STATUS in the State ends.

14 (b) A term of registration described in this section shall be computed from:

- 15 (1) the last date of release;
- 16 (2) the date granted probation; or
- 17 (3) the date granted a suspended sentence.

18 11-708.

19 (a) When a registrant registers, the supervising authority shall:

- 20 (1) give written notice to the registrant of the requirements of this
21 subtitle;
- 22 (2) explain the requirements of this subtitle to the registrant, including:
- 23 (i) the duties of a registrant when the registrant changes residence
24 address in this State;
- 25 (ii) the duties of a registrant under § 11-705(e) and (f) of this
26 subtitle;
- 27 (iii) the requirement for a child sexual offender to register in person
28 with the local law enforcement unit of the county where the child sexual offender will
29 reside or where the child sexual offender who is not a resident of this State IS A
30 TRANSIENT OR will work or attend school; and
- 31 (iv) the requirement that if the registrant changes residence
32 address, employment, or school enrollment to another state that has a registration

1 requirement, the registrant shall register with the designated law enforcement unit
2 of that state within 7 days after the change; and

3 (3) obtain a statement signed by the registrant acknowledging that the
4 supervising authority explained the requirements of this subtitle and gave written
5 notice of the requirements to the registrant.

6 (b) The supervising authority shall obtain a photograph and fingerprints of
7 the registrant and attach the photograph and fingerprints to the registration
8 statement.

9 (c) (1) Within 5 days after obtaining a registration statement, the
10 supervising authority shall send a copy of the registration statement with the
11 attached fingerprints and photograph of the registrant to the local law enforcement
12 unit in the county where the registrant will reside or where a registrant who is not a
13 resident IS A TRANSIENT OR will work or attend school.

14 (2) (i) If the registrant is enrolled in or carries on employment at, or is
15 expecting to enroll in or carry on employment at, an institution of higher education in
16 the State, within 5 days after obtaining a registration statement, the supervising
17 authority shall send a copy of the registration statement with the attached
18 fingerprints and photograph of the registrant to the campus police agency of the
19 institution of higher education.

20 (ii) If an institution of higher education does not have a campus
21 police agency, the copy of the registration statement with the attached fingerprints
22 and photograph of the registrant shall be provided to the local law enforcement
23 agency having primary jurisdiction for the campus.

24 (d) As soon as possible but not later than 5 working days after the registration
25 is complete, a supervising authority that is not a unit of the Department shall send
26 the registration statement to the Department.

27 11-709.

28 (a) Each year within 5 days after a child sexual offender completes the
29 registration requirements of § 11-707(a) of this subtitle, a local law enforcement unit
30 shall send notice of the child sexual offender's annual registration, INCLUDING THE
31 PHOTOGRAPH, to the Department.

32 (b) (1) As soon as possible but not later than 5 working days after receiving
33 a registration statement of a child sexual offender, a local law enforcement unit shall
34 send written notice of the registration statement to the county superintendent, as
35 defined in § 1-101 of the Education Article, in the county where the child sexual
36 offender is to reside or where a child sexual offender who is not a resident of the State
37 IS A TRANSIENT OR will work or attend school.

38 (2) As soon as possible but not later than 5 working days after receiving
39 notice from the local law enforcement unit under paragraph (1) of this subsection, the
40 county superintendent shall send written notice of the registration statement to

1 principals of the schools under the superintendent's supervision that the
2 superintendent considers necessary to protect the students of a school from a child
3 sexual offender.

4 (c) A local law enforcement unit that receives a notice from a supervising
5 authority under this section shall send a copy of the notice to the police department,
6 if any, of a municipal corporation if the registrant:

7 (1) is to reside in the municipal corporation after release; or

8 (2) escapes from a facility but resided in the municipal corporation
9 before being committed to the custody of a supervising authority.

10 11-711.

11 (a) (1) [The Department] A LOCAL LAW ENFORCEMENT UNIT shall mail
12 annually a verification form to the last reported address of each offender and sexually
13 violent offender.

14 (2) The verification form may not be forwarded.

15 (3) Within 10 days after receiving the verification form, the offender or
16 sexually violent offender shall sign the verification form and mail it to the
17 Department.

18 (b) [(1) A local law enforcement unit shall mail a verification form every 90
19 days to the last reported address of a sexually violent predator.

20 (2) The verification form may not be forwarded.

21 (3) Within 10 days after receiving the verification form, the sexually
22 violent predator shall sign the form and mail it to the local law enforcement unit.

23 (4) Within 5 days after receiving a verification form from a sexually
24 violent predator, a local law enforcement unit] WITHIN 5 DAYS AFTER A SEXUALLY
25 VIOLENT PREDATOR COMPLETES THE REGISTRATION REQUIREMENTS OF § 11-707(A)
26 OF THIS SUBTITLE, A LOCAL LAW ENFORCEMENT UNIT shall send [a copy of the
27 verification form] NOTICE OF THE REGISTRATION to the Department.

28 11-721.

29 (a) A registrant may not knowingly fail to register, knowingly fail to provide
30 the written notice required under § 11-705(d), § 11-705(e), or § 11-705(f) of this
31 subtitle, or knowingly provide false information of a material fact as required by this
32 subtitle.

33 (b) A person who violates this section is guilty of a misdemeanor and on
34 conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding
35 \$5,000 or both.

1 (c) A person who violates this section is subject to § 5-106(b) of the Courts
2 Article.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2004.